



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

May 13, 2003

Far Star Enterprises
d.b.a. Nu-Cote Exteriors
8340 Clairemont Mesa Boulevard
Suite 109
San Diego, California 92111-1320
Attn: Bettye Farar, President
Janet Griggs

Far Star Enterprises
d.b.a. Nu-Cote Exteriors
P.O. Box 12502
LaJolla, California 92039
Attn: Bettye Farar, President
Janet Griggs

RE: EB-03-TC-037

Dear Correspondents:

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), for violations of the Federal Communications Commission's rules that govern telephone solicitation.¹

It has come to our attention that your company, or an entity acting on behalf of your company, delivered a telephone solicitation to a residential telephone line despite a previous do-not-call request by a member of the household. Section 64.1200(e) of the Commission's rules requires entities that make telephone solicitations to residential telephone subscribers to follow certain procedures to ensure that the subscribers are able to stop such solicitation calls. Specifically, entities that advertise through telephone solicitation must (1) develop written policies for maintaining a do-not-call list and make such written policies available upon demand; (2) inform and train their personnel engaged in any aspect of telephone solicitation about the existence and use of the do-not-call list; (3) place consumers who request not to receive telephone solicitations on the do-not-call list; and (4) honor each do-not-call request for ten years from the time the request is made.² In addition, the Commission has found that it is unlawful to call a residential telephone line to deliver a telephone solicitation if any member of the household has made a do-not-call request.³

Under the Act and the Commission's rules, a telephone solicitation is "the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or

¹ 47 U.S.C. § 227; 47 C.F.R. § 64.1200.

² 47 C.F.R. § 64.1200(e).

³ *Consumer.Net v. AT&T, Order*, 15 FCC Rcd 281, 298 (1999).

investment in, property, goods, or services, which is transmitted to any person;” calls that are made either by tax-exempt nonprofit organizations or to any person who has provided prior express invitation or permission to call or has an established business relationship with the caller are not considered telephone solicitations.⁴

The attached information provided to the Commission indicates that your company failed to honor a do-not-call request that was made by or on behalf of a residential telephone subscriber who does not have an established business relationship with your company and did not expressly invite or authorize the call. That action violates section 64.1200(e)(2)(vi) of the Commission’s rules.

Subsequent violations of the Commission’s rules and orders of the type described herein may result in the imposition of monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.⁵

Pursuant to section 503(b)(5) of the Communications Act, you may request a personal interview at the Commission’s Field Office nearest to your place of business. The nearest office appears to be the San Diego Office at 4542 Ruffner Street, Room 370, San Diego, California 92111-2216, which you can contact by telephone at (858) 496-5111. You must schedule the interview to take place within 21 days of the date of this citation. You should be prepared to discuss when your company recorded the do-not-call request(s) referenced in the attached consumer correspondence and why your company failed to honor such request(s). You also will be expected to discuss your procedures for training your company’s telephone solicitors as to do-not-call responsibilities, and to specify what steps your company has taken to ensure future compliance with the Commission’s do-not-call rules. Finally, you must supply a copy of your company’s written do-not-call policy as required by section 64.1200(e)(2)(i) of the Commission’s rules. Alternatively, you may submit a written statement addressing the specified topics, and attaching your company’s written do-not-call policy, to the following address within 21 days of the date of this citation:

Kurt A. Schroeder
Deputy Chief
Telecommunications Consumers Division
Enforcement Bureau
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

You should reference EB-03-TC-037 when corresponding with the Commission.

If you request a meeting, reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information.

⁴ 47 U.S.C. § 227(a)(3); 47 C.F.R. § 64.1200(f)(3).

⁵ See 47 C.F.R. § 1.80(b)(3).

Please allow at least 5 days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

As required by the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), you are hereby notified that the Commission's staff will use all relevant material information to determine what, if any, enforcement action is required to ensure your compliance with the Commission's rules. This will include any information that you disclose in your interview or written statement. If you choose not to respond to this citation and a Notice of Forfeiture is issued, your unresponsiveness will be considered in our assessment of a forfeiture amount.

Finally, you should be aware that the knowing and willful making of any false statement or the concealment of any material fact in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kurt A. Schroeder
Deputy Chief
Telecommunications Consumers Division
Enforcement Bureau
Federal Communications Commission

Enclosures